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OFFICE OF PETITIONS

Attention:

Office of Petitions

571/273-8300

Attention: Ms. Kenya A. McLaughlin

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To: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

From: Shawn Omrani
11 Idaho St.
Passaic, N.J. 07055-3336
973/460-1968

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Response to Request for Information

OFFICE OF PETITIONS

Re: Patent No. 5,927,278
Issued July 27, 1999
Application No. 09/135,789

Filing Date: August 18, 1998

2/21/2010

Dear Ms. McLaughlin,

I am in receipt of your letter dated 1/15/2010.

In response to thereto and in further support of reinstating my patent, please note that the delay, if any, in paying the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely.

Specifically, for the past ten years, I would routinely pay my patent attorney, Mr. Terrance L. Siemens, a periodic fee which would be used toward the payment of the maintenance and other fees and legal expenses.

Even though, I continued paying Mr. Siemens the necessary fees, his firm did not convey payment for the maintenance fee. I later learned that Mr. Siemens had passed away and due notice was not provided to me.

On 10/5/2009, upon calling the PTO to inquire about the status of my patent, I found out that my patent, indeed, had expired. On the same date, I, immediately, submitted an application for the reinstatement of the patent and forwarded a check for the outstanding maintenance fee plus the additional assessed penalties. Attached please find a copy of check# 681, for the amount of \$1,940.

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Moreover, upon learning that my patent had expired, I investigated this matter and exercised the due care of a reasonably prudent person and discovered that after the death of Mr. Siemens my patent file was forwarded to Mr. Mark Levy who apparently had also failed to make the maintenance fee payment. I have since made several unsuccessful attempts to contact Mr. Levy. Attached please find a copy of the Tracking and confirmation receipt from the U.S. Post Office with respect to correspondence with Mr. Levy.

As stated above, the delay in the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely, and that upon my learning of the lapse in the maintenance fee, I made the payment immediately.

Also, I would like you to consider my personal situation in which I have been caring for my elderly mother who is a dialysis patient and is in need of constant care for the past several years.

In light of the foregoing, I respectfully request that my patent be reinstated immediately.

Thank you.

Respectfully,


Shawn Omrani

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 Commissioner for Patents
 United States Patent and Trademark Office
 P.O. Box 1450
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Paper No. 9

 Shahram Shawn Omram
 11 Idaho St.
 Passaic NJ 07055

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 JAN 15 2010

 In re Patent No. 5,927,278
 Issued: July 27, 1999
 Application No.: 09/135,782
 Filing Date: August 18, 1998
 Attorney Docket No.

: REQUEST FOR INFORMATION

This is a request for information in response to the petition under 37 CFR 1.378(b), filed October 8, 2009, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed September 28, 2009. No additional fees are due.

The patent issued July 27, 1999. The 7.5 year maintenance fee could have been paid from July 27, 2006, through January 27, 2007, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from January 28, 2007, to July 27, 2007. Petitioner did not do so. Accordingly, the patent expired at midnight on July 27, 2007.

Petitioner is required to address the following points:

Section 2590 of the *Manual of Patent Examining Procedure* (MPEP) specifically states, in pertinent part, that:

... the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to ensure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a Maintenance fee from the patentee to the Office.

While the patentee's failure to track the maintenance fee schedule for the subject patent is regrettable, the failure to pay a maintenance fee based on the failure to receive notice that the maintenance fee is due not satisfy the unavoidable standard of 37 CFR 1.378(b). Accordingly, petitioner must affirmatively state how the maintenance fee payment was missed.

Petitioner must also address how petitioner treated the maintenance of the patent as petitioner's most important business. Petitioner must demonstrate that petitioner acted reasonably and

In re Patent No. 5,927,278

diligently relative to the maintenance of the patent. Specifically, petitioner may wish to address how petitioner tracked the maintenance fee payment schedule for the patent, if at all.

Petitioner must describe when and how petitioner discovered that the patent was expired and the steps taken to promptly address the matter.

If petitioner is relying on the medical issues of petitioner's mother and spouse, petitioner must provide a statement and documentation that demonstrates how medical issues of petitioner's mother and spouse contributed to the alleged unavoidable delay in paying the maintenance fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

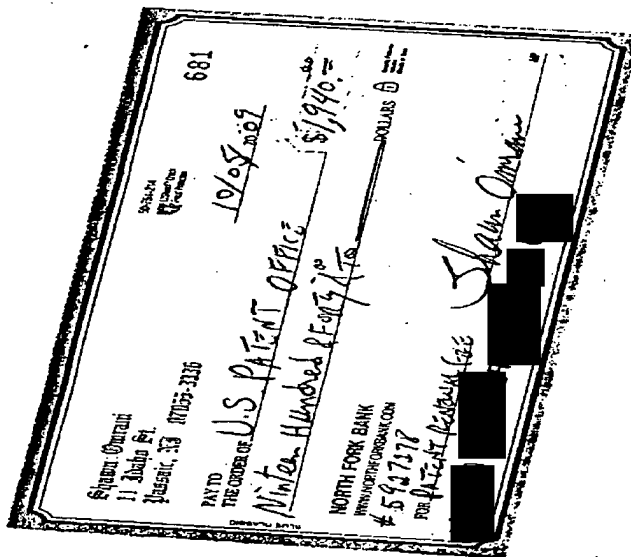
Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.


Kenya A. McLaughlin
Petition Attorney
Office of Petitions

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- Delivered, February 05, 2010, 10:54 am, BINGHAMTON, NY 13901
- Out for Delivery or Available at PO Box, February 05, 2010, 8:49 am, BINGHAMTON, NY 13902
- Sorting Complete, February 05, 2010, 8:19 am, BINGHAMTON, NY 13902
- Arrival at Post Office, February 05, 2010, 3:36 am, BINGHAMTON, NY 13902
- Processed through Sort Facility, February 04, 2010, 1:18 pm, ROCHESTER, NY 14606
- Processed through Sort Facility, February 03, 2010, 8:51 pm, KEARNY, NJ 07032
- Acceptance, February 03, 2010, 10:26 am, PASSAIC, NJ 07065

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MARK LEVY

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